

EXHIBIT 1

Exhibit 1

CC-16-02328-C - SOUSAN HATAMIEH vs.KROGER TEXAS LP

Case Number: CC-16-02328-C
File Date: 05/09/2016
Case Status: OPEN

Court: County Court at Law No. 3
Case Type: DAMAGES (NON COLLISION)

PLAINTIFF : HATAMIEH, SOUSAN

Active Attorneys

Lead Attorney:

ALMASRI, SAM

Retained

Work Phone: 214-227-2777

Fax Phone: 214-227-2271

DEFENDANT : KROGER TEXAS LP

Address:

Corporations Company D/B/A CSC- INCO
211 E. 7TH STREET, SUITE 620
AUSTIN TX 78701

Active Attorneys

Lead Attorney:

MCMAHAN, D LUKE

Retained

Work Phone: 214-999-0550

Fax Phone: 214-999-0551

05/09/2016 NEW CASE FILED (OCA)

05/09/2016 ORIGINAL PETITION

PETITION

CIVIL CASE INFORMATION

Comment: ORIGINAL PETITION

05/09/2016 ISSUE CITATION

ISSUE CITATION

Comment: PLACED IN ATTORNEY PICK-UP BOX 5/10/2016 ET

05/10/2016 CITATION (SERVICE)

Anticipated Server: ATTORNEY

Actual Server: CERTIFIED MAIL

Anticipated Method:

Returned: 05/24/2016 1:38 PM

05/24/2016 RETURN OF SERVICE

RETURN OF SERVICE

Comment: CITATION SERVED BY CERTIFIED MAIL ON 05/16/2016 @ 9:47 AM

05/31/2016 ORIGINAL ANSWER

ORIGINAL ANSWER



Loading financial information, please wait...

PETITION

CIVIL CASE INFORMATION

ISSUE CITATION

RETURN OF SERVICE

ORIGINAL ANSWER

EXHIBIT A

Exhibit A

CAUSE NO. CC-16-02328-CSOUSAN HATAMIEH
Plaintiff,

V.

KROGER TEXAS LP

Defendant.

§ IN THE COUNTY COURT AT LAW

§

§

§ NO. _____

§

§

§

§ DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES Sousan Hatamieh, hereinafter called Plaintiff, complaining of and about Kroger Texas LP., hereinafter called Defendant, and for cause of action would show unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 3.

PARTIES AND SERVICE

2. Plaintiff, Sousan Hatamieh, is an Individual whose address is 7216 Sugar Maple Dr., Irving, TX 75063.

3. The last three numbers of Sousan Hatamieh's social security number are 424.

4. Defendant Kroger Texas LP, a foreign corporation that does regular commercial business in Texas, may be served with process by serving the registered agent of said company, Corporations Service Company D/B/A CSC-Lawyers INCO., at 211 e. 7th Street Suite 620, AUSTIN, TX 78701, its registered office. Service of said Defendant as described above can be effected by personal delivery.

JURISDICTION AND VENUE

5. The subject matter in controversy is within the jurisdictional limits of this court.

6. Plaintiff seeks:

a. only monetary relief of over \$200,000.00 but not over \$1,000,000.00.

7. This court has jurisdiction over the parties because Defendant engages in commercial activity throughout Dallas Texas, thereby meeting the minimum contacts standard.

8. Venue in Dallas County is proper in this cause.

FACTS

9. The lawsuit results from an incident that occurred on May 14, 2014.

10. Sousan Hatamieh entered upon said premises for the purpose of buying goods from Defendant's store.

11. During the time that Sousan Hatamieh was upon Defendant's property, Sousan Hatamieh was seriously injured as a result of hazardous conditions due to construction work that left boxes around without warning signs. Plaintiff fell inside the Kroger due to the lack of warnings and the dangerous conditions created. Due to this dangerous condition, Plaintiff Sousan Hatamieh sustained serious injuries to her body.

12. Sousan Hatamieh's bodily injuries occurred as a direct result of a fall that was proximately caused by the dangerous condition described above, which Defendant knew or, in the exercise of ordinary care, should have known existed.

LIABILITY OF DEFENDANT KROGER TEXAS LP .

13. At all times mentioned herein, Defendant Kroger owned the property in question, located at 7705 N. Macarthur Blvd. Irving, TX 75063.

14. At all times mentioned herein, Defendant KROGER had such control over the

premises in question that Defendant KROGER owed certain duties to Plaintiff, the breach of which proximately caused the injuries set forth herein.

15. Defendant KROGER, Defendant's agents, servants, and employees negligently permitted the floor to become slick, negligently or willfully allowed such condition to continue and negligently or willfully failed to warn Plaintiff of the condition of the floor. This condition existed despite the fact that Defendant KROGER or Defendant's agents knew or should have known of the existence of the aforementioned condition and that there was likelihood of a person being injured as occurred to Plaintiff.

16. Furthermore, Plaintiff would show the court that the condition of the floor had continued for such period that, had Defendant KROGER or Defendant's agents exercised ordinary care in the maintenance of the floor surface area, it would have been noticed and corrected by such persons.

17. At all times pertinent herein, Defendant KROGER, and any of Defendant's agents, who were acting in the scope of their employment, were guilty of negligent conduct toward the Plaintiff in:

- A. Failing to properly inspect and maintain the flooring area in question to discover the dangerous condition;
- B. Failing to maintain the floor in a reasonably safe condition;
- C. Failing to give adequate and understandable warnings to Plaintiff of the unsafe condition of the flooring area; and
- D. Failing to give warnings to Plaintiff of the unsafe condition.

PROXIMATE CAUSE

18. Each and every, all and singular of the foregoing acts and omissions, on the part of Defendant, taken separately and/or collectively, constitute a direct and proximate cause of the

injuries and damages set forth below.

DAMAGES FOR PLAINTIFF, SOUSAN HATAMIEH

19. As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendant's acts as described herein, Plaintiff, Sousan Hatamieh was caused to suffer bodily injuries, and to endure anxiety, pain, and illness resulting in damages more fully set forth below.

20. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, Sousan Hatamieh has incurred the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, Sousan Hatamieh for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Dallas County, Texas;
- B. Reasonable and necessary medical care and expenses which will, in all reasonable probability, be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Mental anguish in the past;
- E. Physical pain and suffering in the future;
- F. Mental anguish in the future;
- G. Physical impairment in the past; and
- H. Physical impairment which, in all reasonable probability, will be suffered in the future.

21. By reason of the above, Plaintiff, Sousan Hatamieh has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.


PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Sousan Hatamieh, respectfully

prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

ALMASRI MARZWANIAN & SPEULVEDA LAW
GROUP PLLC

By: 

Sam Almasri
Texas Bar No. 24053071
Email: sam@theamslawgroup.com
9330 LBJ Freeway, Suite 900
Dallas, Texas 75243
Tel. (214) 227-2777
Fax. (214) 227-2271
Attorney for Plaintiff
Sousan Hatamieh

THE STATE OF TEXAS
CITATION

CAUSE NO. CC-16-02328-C
COUNTY COURT AT LAW NO. 3
Dallas County, Texas

FILED
JOHN F. WARREN
COUNTY CLERK
DALLAS COUNTY, TEXAS

2016 MAY 24 PM 1:38

TO:

KROGER TEXAS LP
SERVE REG. AGENT: CORPORATIONS SERVICE COMPANY
D/B/A CSC-LAWYERS INCO.
211 E. 7TH STREET, SUITE 620
AUSTIN TX 78701

"You have been sued. You may employ an attorney. If you or your Attorney do not file a WRITTEN ANSWER with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and PLAINTIFF'S ORIGINAL PETITION, a default judgment may be taken against you." Your answer should be addressed to the clerk of County Court at Law No. 3 of Dallas County, Texas at the Court House of said County, 600 Commerce Street, Suite 101, Dallas, Texas 75202.

SOUSAN HATAMIEH
Plaintiff(s)

VS.

KROGER TEXAS LP
Defendant(s)

filed in said Court on the 9th day of May, 2016 a copy of which accompanies this citation.

WITNESS: JOHN F. WARREN, Clerk of the County Courts of Dallas County, Texas. GIVEN UNDER MY HAND AND SEAL OF OFFICE, at Dallas, Texas, and issued this 10th day of May, 2016 A.D.

JOHN F. WARREN, Dallas County Clerk

By , Deputy
Eric Tucker



ATTORNEY

CITATION
PLAINTIFF'S ORIGINAL PETITION

CC-16-02328-C

IN THE COUNTY COURT OF DALLAS
County Court at Law No. 3
Dallas County, Texas

SOUSAN HATAMIEH, *Plaintiff(s)*

VS.

KROGER TEXAS LP, *Defendant(s)*

SERVE:

KROGER TEXAS LP
SERVE REG. AGNET:
CORPORATIONS SERVICE
COMPANY
D/B/A CSC-LAWYERS INCO.
211 E. 7TH STREET, SUITE 620
AUSTIN TX 78701

ISSUED THIS
10TH DAY OF MAY, 2016

JOHN F. WARREN, COUNTY CLERK
BY: ERIC TUCKER, DEPUTY

Attorney for Plaintiff

SAM ALMASRI
ALMASRI MARZWANIAN &
SEPULVEDA LAW GROUP PLLC
9330 LBJ FREEWAY
SUITE 900
DALLAS TX 75243
214-227-2777

NO OFFICER'S FEES HAVE BEEN
COLLECTED BY DALLAS COUNTY CLERK

OFFICER'S RETURN

CC-16-02328-C County Court at Law No. 3

SOUSAN HATAMIEH vs. KROGER TEXAS LP

ADDRESS FOR SERVICE:

CORPORATIONS COMPANY D/B/A CSC-LAWYERS INCO
 211 E 7TH STREET, SUITE 620
 AUSTIN TX 78701

Fees:

Came to hand on the 10th day of May, 20 16, at 12 o'clock P.m., and executed in TRAVIS County, Texas by delivering to KROGER TEXAS LP ~~in person~~, a true copy of this Citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION with the date and service at the following times and places to-wit:

Name Kroger Texas LP by serving registered agent Date/Time 5/16/16 9:47A Place, Course and Distance from Courthouse 211 E. 7th St. #620, Austin, TX, 7

Corporation Service Company ~~And not executed as to the defendant(s).~~ *by certified mail #7012292000096074582 (78701)

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

Serving Petition and Copy \$

Total \$ 75

Corina Ann Woods, Officer

#10836, County, Texas

By: Exp 3/31/17, Deputy

Corina A. Woods, Affiant

SWORN TO AND SUBSCRIBED BEFORE ME

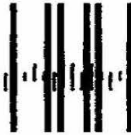
ON THIS 23rd DAY OF May 2016

x Heather S. Berk



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature  <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>KROGER TEXAS LP C/O CORPORATION SERVICE COMPANY 211 E. 7TH ST. #620 AUSTIN TX 78701</p>		<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery MAY 16 2016</p>
<p>2. Article Number (Transfer from service label)</p> <p>7012 2920 0000 9607 4582</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail</p>		<p><input checked="" type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>9590 9403 0857 5215 0432 07</p>		<p>Mail Restricted Delivery (00)</p>	
<p>PS Form 3811, April 2015 PSN 7530-02-000-9053</p>		<p>Domestic Return Receipt</p>	

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

5/14
9:47 AM

LEGAL DOCUMENT MANAGEMENT
8900 LEJ FREEWAY #330
DALLAS TX 75240

USPS TRACKING#



9590 9403 0857 5215 0432 07

EXHIBIT B

Exhibit B

CAUSE NO. CC-16-02328-C

SOUSAN HATAMIEH, Plaintiff,	§	IN THE COUNTY COURT
	§	
	§	
v.	§	AT LAW NO. 3
	§	
KROGER TEXAS LP, Defendant.	§	DALLAS COUNTY, TEXAS

DEFENDANT KROGER TEXAS LP'S ORIGINAL ANSWER

Defendant Kroger Texas L.P. hereby files its Original Answer to Plaintiff's Original Petition, and in support thereof, states as follows:

GENERAL DENIAL

I.

Defendant denies each and every, all and singular, the material allegations contained in Plaintiff's Original Petition, demands strict proof thereof, and to the extent that such matters are questions of fact, says Plaintiff should prove such facts by a preponderance of the evidence to a jury if she can so do.

DEFENSIVE MATTERS

II.

Pleading further, Defendant claims that Plaintiff failed to use that degree of care and caution as would have been used by a reasonable person under the same or similar circumstances, thereby producing or proximately causing or contributing to cause her alleged injuries and damages. Such acts or omissions of Plaintiff were the sole and/or a producing and/or a proximate cause of Plaintiff's alleged damages or injuries.

III.

Defendant claims that Plaintiff's alleged damages or injuries were caused by the acts and/or omissions of third persons not under the control of Defendant. Such acts or omissions of said third persons were the sole and/or a producing and/or a proximate cause of Plaintiff's alleged damages or injuries.

IV.

Defendant asserts that it had neither actual nor constructive knowledge of the condition about which Plaintiff complains and that, in any event, the alleged hazard was not "unreasonably dangerous."

V.

Defendant would show that the accident complained of was an unavoidable accident as that term is known in law.

VI.

Defendant states that Plaintiff's damages complained of, if any, were the result of prior or pre-existing injuries, accidents or conditions, and said prior or pre-existing injuries, accidents or conditions were the sole and/or a contributing cause of the Plaintiff's alleged damages.

VII.

Plaintiff has breached her duty to mitigate damages by failing to exercise reasonable care and diligence to avoid loss and minimize the consequences of damages.

VIII.

Defendants claim that Plaintiff is malingering and exaggerating the nature and severity of his injuries in order to continue treatment, and accordingly, Defendants contend that said

treatment is not medically necessary or reasonable.

IX.

Defendant contends that any claims for medical or health care expenses incurred is limited to the amount actually paid or incurred by or on behalf of Plaintiff pursuant to Texas Civil Practice and Remedies Code § 41.0105.

X.

Defendant states that in the unlikely event that an adverse judgment would be rendered against it in this matter, Defendant would respectfully pray for contribution, indemnity and/or all available credits as provided for in the Texas Civil Practice and Remedies Code and under Texas law.

REQUEST FOR COURT REPORTER

XI.

Defendant respectfully demands a court reporter be present at all proceedings.

PRAYER

XII.

WHEREFORE, PREMISES CONSIDERED, Defendant Kroger Texas LP respectfully prays that Plaintiff take nothing by this cause of action, that it be permitted to recover the costs expended on its behalf, and for such other and further relief to which it may show itself justly entitled, in law or in equity.

Respectfully submitted,

/s/ D. Luke McMahan

B. Kyle Briscoe

State Bar No. 24069421

kbriscoe@peavlergroup.com

D. Luke McMahan

State Bar No. 24051032

lmcmahan@peavlergroup.com

THE PEAVLER GROUP

2215 Westgate Plaza

Grapevine, Texas 76051

(214) 999-0550 (telephone)

(214) 999-0551 (facsimile)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record pursuant to and in accordance with the Texas Rules of Civil Procedure on May 31, 2016.

/s/ D. Luke McMahan

D. Luke McMahan